8-3-1988

State of New York Public Employment Relations Board Decisions from August 3, 1988

New York State Public Employment Relations Board

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Keywords

NY, NYS, New York State, PERB, Public Employment Relations Board, board decisions, labor disputes, labor relations

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

UNATEGO TEACHERS ASSOCIATION, NYSUT, AFT, AFL-CIO, LOCAL 3066,

Charging Party,

-and-

CASE NO. U-9504

UNATEGO CENTRAL SCHOOL DISTRICT,

Respondent.

BRIAN A. LAUD, Field Representative, for Charging Party

HOGAN & SARZYNSKI, ESQS. (EDWARD SARZYNSKI, ESQ., of Counsel), for Respondent

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the Unatego Teachers Association, NYSUT, AFT, AFL-CIO, Local 3066 (Association) and the cross-exceptions of the Unatego Central School District (District) to a decision of the Director of Public Employment Practices and Representation (Director) which found, in part, that the District violated §209-a.1(d) of the Public Employees' Fair Employment Act (Act). In particular, the Director found that the District violated the Act when it unilaterally adopted an "Unpaid Leave of Absence" policy but dismissed so much of the Association's charge as alleges that bargaining unit member Joan Marshall was denied an unpaid leave of absence in violation of the past practice in effect between the parties.

It is uncontroverted that on April 29, 1987, the Board of Education of the District enacted an unpaid leave of absence policy, without negotiation with the Association, which was to take effect on July 1, 1987. While the policy was directed primarily at short-term unpaid leaves of absence being taken by noninstructional staff, it is uncontradicted that the policy applies also to long-term unpaid leaves of absence for teaching staff. Furthermore, it is established by the record that, during the eight-year period preceding the District's enactment of its unpaid leave of absence policy, Association bargaining unit members made seven requests for long-term unpaid leave and that all seven requests were granted by the Board of Education, although not always on the basis of a unanimous vote. There is no evidence concerning the criteria considered by the Board when reviewing and granting these requests.

Under the policy enacted by the Board of Education on April 29, 1987, a new procedure and criteria for requesting unpaid leaves were developed. A copy of the policy is annexed hereto as Appendix A.

The Director found that the District's new policy on unpaid leaves of absence created not only a new procedure, but also new substantive requirements for obtaining such leaves, both of which constitute mandatory subjects of negotiation.[1/] The Director accordingly found that the implementation of the new leave

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[1/] See City of Albany, 7 PERB ¶3078 (1974); Spencerport CSD, 16 PERB ¶3074 (1983); Plainedge UFSD, 7 PERB ¶3050 (1974).

without pay policy without negotiation with the Association violated §209-a.1(d) of the Act. His finding in this regard is affirmed.

The Director also found, however, that the new policy did not form the basis for the decision of the Board of Education to deny Marshall's leave request, made on May 12, 1987, shortly after the Board of Education promulgated it. The Director did so based upon a credibility determination of the testimony of Superintendent Molatch, that the denial of Marshall's leave request was based not upon promulgation of the new leave policy, but upon the special circumstances of her request. The reason given by the District for the denial of Marshall's request, notwithstanding the granting of all previous requests for the past eight years, is that she made it known to the Board that the reason for the leave request was to take other unrelated employment (with the Federal Bureau of Investigation), without indicating its temporary nature or an intention to return to her employment with the District. A secondary reason offered by the District for its refusal of Marshall's leave request was that the leave was to take effect on June 1, 1987, before the conclusion of the academic year, rather than at the conclusion of the academic year, as had been the case with other leave requests.

Notwithstanding the previous history in the District of granting leave requests, we are unwilling to disturb the Director's credibility finding leading to dismissal of the charge insofar as it relates to Marshall's leave request. Furthermore, we affirm the Director's dismissal of this aspect of the charge

upon the ground that the Association failed to meet its burden of establishing the existence of a past practice of granting leaves under the same circumstances as presented in Marshall's request. This is particularly so in view of the absence of evidence in the record that the members of the Board of Education who voted upon each of the leave requests presented by the Association had any knowledge or awareness that any granted leave requests were for the purpose of taking other unrelated nontemporary employment. Although the Association presented evidence that employee Hurd obtained a leave of absence in order to pursue employment with a local real estate agency, and that employee Scott obtained a leave of absence to pursue other employment in North Carolina, there is no evidence that the members of the Board of Education were aware of these circumstances when they granted the leave requests[2/]. In the absence of such evidence, it cannot be said that the Association has met its burden of establishing that the Board of Education has, by its actions, divested itself of its discretion to deny leave requests, and has thus created a practice of granting all leave requests upon which unit members have come to rely.

The Association asserts that school principal Hull's prediction to Marshall that her leave request would be denied constitutes evidence of departure from the past practice of granting leaves of absence. However, in the absence of evidence

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[2/]Both requests to the Board were based on "personal and family reasons."

of the reasoning behind the prediction , it may equally be inferred that Hull perceived a difference between Marshall's circumstances and those of others whose requests had been granted. Of particular note is the fact that Marshall did not express any intention of returning to her employment with the District, nor did she indicate that the employment was for a trial period or that she would be undergoing a probationary or training period which might result in her return to employment with the District. The evidence, accordingly, adequately supports the Director's determination that Marshall's request may be distinguished from other requests which had previously been granted.

Based upon the limited factual circumstances of this case, the Director's dismissal of so much of the charge as alleges that Marshall's leave request was denied in violation of §209-a.1(d) of the Act is affirmed.

IT IS THEREFORE ORDERED that the District:

1. Rescind the unpaid leave of absence policy adopted by the Board of Education on April 29, 1987, as it affects employees in the unit represented by the Unatego Teachers Association;
2. Negotiate in good faith with the Unatego Teachers Association with respect to terms and conditions of employment of unit employees; and

3. Post a notice in the form attached in all locations ordinarily used to post written communications to unit employees.

DATED: August 3, 1988
Albany, New York

Harold R. Newman, Chairman

Walter L. Eisenberg, Member

APPENDIX A

It is recognized that unexpected or emergency circumstances may arise which would cause an employee to request an unpaid personal leave of absence for a day or more. An unpaid personal leave of absence is designed for use only when emergency or unforeseen extenuating circumstances arise which would necessitate an employee's absence for a purpose which cannot be scheduled for another time. An unpaid personal leave of absence may not be used for the purpose of extending a holiday, for a vacation, for recreation or pleasure, or for any purpose for which another category of leave is available.

The employee's request for an unpaid personal leave of absence must be submitted to the Superintendent, through the employee's immediate supervisor, at least two weeks prior to the desired commencement date of the absence. The advance request requirement may only be waived by the Superintendent. The request must clearly indicate the desired date(s) of the leave, the purpose of the leave, and any extenuating circumstances that exist which form the basis for the request.

Only the Superintendent is authorized to grant approval for an unpaid personal leave of absence. Each request will be considered on its own merits. Such factors as the need for and the availability of a qualified and competent substitute, the importance of the functions normally performed by the employee during the requested period of absence, the degree of disruption anticipated as a result of the employee's absence, the cost to the District and any impact on the daily operations of the District will be considered in each case, as well as any factors unique to the particular case.

APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

THE DECISION AND ORDER OF THE

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE
PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify all employees in the unit represented by the Unatego Teachers Association, NYSUT, AFT, AFL-CIO, Local 3066, that the Unatego Central School District:

1. Will rescind the unpaid leave of absence policy adopted by the Board of Education on April 29, 1987, as it affects employees in the unit represented by the Unatego Teachers Association, and

2. Will negotiate in good faith with the Unatego Teachers Association with respect to terms and conditions of employment of unit employees.

UNATEGO CENTRAL SCHOOL DISTRICT

.....

Dated ..... **By** .....
(Representative) (Title)

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

11649

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

ROCHESTER POLICE LOCUST CLUB, INC.

Charging Party,

-and- CASE NO. U-9665

CITY OF ROCHESTER,

Respondent.

JESSERER & ANDOLINA, ESQS. (LAWRENCE J. ANDOLINA, ESQ., of Counsel), for Charging Party

LOUIS N. KASH, ESQ., (BARRY C. WATKINS, ESQ, of Counsel), for Respondent

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the City of Rochester (City) to an Administrative Law Judge (ALJ) decision which sustains a charge by the Rochester Police Locust Club, Inc. (Union) that the City violated §209-a.1(d) of the Public Employees' Fair Employment Act (Act) when it unilaterally subcontracted bargaining unit work. In particular, the ALJ found that the City improperly ceased deploying police officers to direct traffic at the City's East Main Street construction site and thereafter caused the work to be performed by civilian security guards employed by a contractor. For the reasons which follow, the ALJ decision is affirmed.

During the summer of 1986, the City began a major downtown reconstruction project, which required the closing of several blocks of East Main Street to through traffic in the downtown area. Although traffic control at construction sites in other areas of the City has, as a general matter, historically been performed by flaggers employed by construction contractors, the City made the determination in relation to the East Main Street project that a "police presence" was necessary to properly enforce the strict limitations on access to the construction area and detour of all remaining traffic around the construction site. As a result of this determination, for a period of approximately 13 months, police officers employed by the City's police department (and represented by the Union) performed traffic control duty on an overtime basis at each end of the construction site on East Main Street. At the end of the 13-month period, the contractor responsible for the second phase of the reconstruction work agreed with the City to provide personnel who would take the place of the City's police officers in conducting traffic control at the East Main Street site. The contractor thereupon utilized security guards and these security guards, according to uncontroverted testimony, dressed in similar fashion to the police officers, otherwise appeared to have the same authority as police officers, performed the same duties as the police officers,

and did not perform flagging duties, although they had been requested by the City to do so and had refused.

Based upon these facts, which are set forth in further detail in the ALJ decision at 21 PERB ¶4541 (1988), the ALJ found that the at-issue work involves the East Main Street construction site and not construction sites around the City generally. She concluded that the work at the East Main Street site had, from its outset, been determined by the City to constitute unit work. The ALJ accordingly found that said work, having been from its outset assigned to City police officers, and having lasted for a period of 13 months, constituted exclusive bargaining unit work which could not be subcontracted to nonunit persons without negotiation if the level and type of service provided by the subcontract employees was essentially the same as the level and type of service provided by unit employees.

It is our determination that the ALJ correctly found that the City permitted the same level and type of service (i.e. traffic control at the East Main Street construction site utilizing a "police presence") to be provided by both the police officers and the contractor's security guards. She so found on the basis of the similarity in appearance of the uniforms and indicia of authority of each group, the identity of service provided, and that the City continued to receive the services of a police-like presence at the

construction site, rather than those of flaggers with reduced authority level and duties.

Thus, the ALJ correctly found that the Union met both elements of the test enunciated by this Board to determine the negotiability of a unilateral transfer of unit work set forth in Niagara Frontier Transportation Authority, 18 PERB ¶3083 (1985). In that case, we held that in order for a duty to bargain to exist, the charging party must establish "[w]hether the work had been performed by unit employees exclusively [citation omitted] and whether the reassigned tasks are substantially similar to those previously performed by unit employees."[1/]

The City, in its exceptions, argues that the ALJ should have found that the use of unit members for 13 months at the East Main Street construction site was a temporary and therefore nonexclusive use, and accordingly subject to the Board's holding in Deer Park UFSD, 15 PERB ¶3104 (1982). In Deer Park, however, we relied not on an arbitrary establishment of a specific length of time spent performing unit work to determine whether it was exclusively unit work, but on a determination that the work of teaching had historically been work shared and exchanged between two units of employees, which rendered the work nonexclusive. We agree with the ALJ that it is unnecessary for us to determine

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1/Niagara Frontier Transportation Authority, 18 PERB ¶3081 at 3182 (1985).

whether, by itself, 13 months is a sufficient period of time to establish the exclusivity of the unit work, since the work, under the facts of this case, had also been exclusively unit work from its onset. Obviously, central to our determination of whether the work is exclusively unit work is a definition of the work itself. We concur with the ALJ that the City itself defined the work at issue when it determined that the East Main Street construction site was a special construction site which warranted and required the use of a police presence to enforce traffic limitations in the area. While the City was free to change the nature and scope of the work to be performed, it was not free to assign or cause to be assigned the same work which it had originally defined to nonunit personnel, after having initially determined that the work was appropriate to the unit of police officers.

In sum, then, we hold that the proper definition of the at-issue work is the screening and rerouting of traffic at the East Main Street construction site, that the work as so defined had exclusively been performed by police officer unit employees because from its onset and for a continuous period of 13 months it had been performed by unit employees, and that the reassignment of the tasks performed by unit employees to civilian security guards required the performance of tasks substantially similar to those previously performed by unit employees. The standards of Niagara Frontier Transportation Authority, 18 PERB ¶3083

(1985), having been met, we affirm the ALJ finding that the City violated §209-a.1(d) of the Act when it made such reassignment without negotiation with the Union. The decision and recommended order of the ALJ are accordingly adopted by this Board.

IT IS THEREFORE ORDERED that:

1. Cease and desist from assigning unit work to nonunit personnel;
2. Restore to the unit that work assigned to the security guards at the East Main Street construction site;
3. Pay unit members any lost wages or benefits suffered as a result of subcontracting, plus interest at the legal rate;[2/]
4. Negotiate in good faith with the Union concerning the terms and conditions of employment of unit members;

[2/]In its exceptions, the City argues that the back pay remedy recommended by the ALJ is impossible to perform, because it is impossible to determine which police officers would have actually performed the overtime work (for which no other overtime work was substituted) and it is therefore impossible to determine which bargaining unit members would be entitled to payment for lost wages or benefits. We disagree. The identity of police officers who lost wages or benefits as a result of the subcontracting of the at-issue work is ascertainable with a reasonable degree of certainty, and, in any event, if the parties are unable to agree on this issue, a motion may be made by either party to reopen this case on the issue of damages before the assigned ALJ.

5. Sign and post the attached notice at all locations customarily used to communicate with unit employees.

DATED: August 3, 1988
Albany, New York

Harold R. Newman, Chairman

Walter L. Eisenberg, Member

APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

THE DECISION AND ORDER OF THE

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE
PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify all employees of the City of Rochester in the unit represented by the Rochester Police Locust Club, Inc., that the City:

1. Will not assign unit work to nonunit personnel;

2. Will restore to the unit that work assigned to security guards at the East Main Street construction site;

3. Will pay unit members any lost wages or benefits suffered as a result of subcontracting, plus interest at the legal rate;

4. Will negotiate in good faith with the Union concerning the terms and conditions of employment of unit members.

CITY OF ROCHESTER

.....

Dated..... **By**.....
(Representative) (Title)

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered defaced, or covered by any other material.

11657

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

THOMAS C. BARRY

CASE NO. DR-004

Upon a Petition For Declaratory Ruling

THOMAS C. BARRY, pro se

BOARD DECISION AND ORDER

This petition comes to us on the exceptions of Thomas C. Barry, petitioner, to the refusal of the Director of Public Employment Practices and Representation (Director) to issue a declaratory ruling and to the consequent dismissal of his petition. Barry, a member of the faculty at the State University of New York at Buffalo, seeks a determination that §208.3(a) of the Public Employees' Fair Employment Act (Act)[1/] is not applicable to any full- time, tenured or

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1/Section 208.3(a) of the Act provides, in part, as follows:

> [E]very employee organization that has been recognized or certified as the exclusive representative of . . . employees in a collective negotiating unit established pursuant to this article for the professional services in the state university . . . shall be entitled to have deducted from the wage or salary of the employees in such negotiating unit who are not members of said employee organization the amount equivalent to the dues levied by such employee organization . . . .

tenure track faculty of the State University of New York (SUNY), including himself, based upon principles outlined by the United States Supreme Court in NLRB v. Yeshiva University, 444 U.S. 672, 103 LRRM 2526 (1980). In particular, Barry asserts that SUNY faculty members are professional managers who should be excluded from the coverage of the Act. There is no dispute that these persons are currently placed in the Professional Services Unit of SUNY referenced in §208.3 of the Act.

The Director's refusal, pursuant to §210.2(a) of the Rules of Procedure, to issue a declaratory ruling[2/] is based upon his finding that §210.1(a) of the Rules, which provides that a declaratory ruling petition may be filed for a determination as to the "applicability of the act to [the petitioner] or any other person, employee organization or employer, . . ." does not contemplate its use when the Board

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[2/]Section 210.2(a) of the Rules provides as follows:

> The Director will determine whether the issuance of the declaratory ruling would be in the public interest as reflected by the policies underlying the act. If his determination is in the negative, he shall dismiss the petition. Such a dismissal shall merely constitute a refusal to issue a declaratory ruling, and not the denial of any position proposed by the petitioner. A decision of the Director to refuse to issue a declaratory ruling may be made at any stage of the proceeding, until a declaratory ruling has been made by him or by an administrative law judge designated by him.

has already decided the issue presented by the petition. The Director relies upon a decision of this Board issued in 1969, [2 PERB ¶3070 (1969)] wherein the Board made certain determinations concerning SUNY employees, including, in particular, a determination that a single statewide unit (rather than local units for each college and university of the SUNY system) was the most appropriate unit. The issue presented by Barry in the instant petition, that full-time tenured and tenure track faculty of SUNY are managerial personnel who should be excluded from the Act's coverage, was not actually litigated in that case because no party to that proceeding made such a claim, and coverage was, with certain specific "managerial" job title exceptions, generally presumed. Accordingly, we find that although implicit in the uniting decision cited by the Director is a finding of coverage, the Director erred when he refused to decide the petition upon the ground that the issue presented has already been decided by the Board.

If the petition is treated as narrowly confined to the question of whether §208.3(a) of the Act applies to all persons who are in the negotiating unit known as the Professional Services Unit of the State University of New York, the question presented by the petition would readily be answered in the affirmative. There can be no question that all persons determined to be members of the Professional Services bargaining unit of SUNY are subject to the

provisions of §208.3 of the Act, and Barry makes no claim that the language of §208.3 is ambiguous or has been misapplied to the Professional Services Unit to which he belongs and which is represented by United University Professions (UUP), which benefits from agency fee shop fee deductions made pursuant to that section.

The gravamen of the petition, however, is, as found by the Director, whether full-time tenured and tenure track faculty are managerial employees who should be excluded from the Act's coverage, based upon the reasoning contained in NLRB v. Yeshiva University, 103 LRRM 2526 (1980), Trustees of Boston University, 123 LRRM 1144 (1986) (NLRB decision), and University of Pittsburgh, 18 PPER ¶18077 (1987) (an Administrative Law Judge [ALJ] decision under the Pennsylvania Public Employment Relations Act). Each of these cases, cited by Barry in support of his petition, is based upon a finding that the faculty at the universities under consideration are supervisory and/or managerial employees excluded from applicable statutory collective bargaining coverage. Although Barry, in his exceptions to the Director's decision, asserts that the Director misapprehends the import of the petition when he treats the petition as essentially seeking a managerial designation of all full-time tenured and tenure track faculty members of SUNY, no other basis for the ruling sought is presented in the petition or the exceptions filed with this Board. We view the Director's

treatment of the petition as, in essence, seeking a managerial designation which would result in exclusion of Barry and other similarly situated from the Act's coverage generally, and, therefore, also from the coverage of §208.3 in particular, as being accurately reflective of the petition and its supporting materials and case citations. Thus, a second ground explicated by the Director for his refusal to issue a declaratory ruling is that, to the extent that the basis for Barry's assertion that SUNY faculty members are not subject to agency shop fee deductions is that they are managerial personnel who are excluded from the Act's coverage, the petition seeks a managerial designation, for which an entirely separate procedure exists under our Rules.[3/]

We agree with the Director that a petition for declaratory ruling is not the appropriate procedure for determining whether persons in certain job titles in the employ of a public employer are or are not managerial and therefore excluded from the Act's coverage. The proper procedure for obtaining such a determination is in the context of Rules §201.10, which provides for the filing of managerial/confidential applications[4/]. We therefore find

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[3/]Rules §201.10.

[4/]Questions concerning the appropriateness of units and the applicability of the Act to employers and employees may also arise in the context of representation proceedings pursuant to Rules §201.

that the Director properly declined to issue a declaratory ruling on the issue presented to him, and

IT IS ORDERED that the petition be, and it hereby is, dismissed.[5/]

DATED: August 3, 1988
Albany, New York

Harold R. Newman, Chairman

Walter L. Eisenberg, Member

[5/]Barry asserts that certain procedural errors were committed in the processing of his declaratory ruling petition, such as failure to assign the petition to an ALJ other than the ALJ originally assigned to it, excessive time taken to reach a decision, failure to request clarifications or modifications of Barry, and failure to seek the views of other interested parties. We have examined each of these exceptions, and find them not to constitute reversible error, particularly in light of our affirmance of the Director's determination not to issue a declaratory ruling on a matter encompassed by other PERB Rules.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

WARREN COUNTY POLICE OFFICERS ASSOCIATION,

Petitioner,

CASE NO. C-3230

-and-

COUNTY OF WARREN,

Employer,

-and-

CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., WARREN COUNTY LOCAL 857,

Intervenor.

DREYER, KINSELLA, BOYAJIAN & TUTTLE, ESQS. (JAMES B. TUTTLE, ESQ., of Counsel), for Petitioner

MARJORIE E. KAROWE, ESQ., GENERAL COUNSEL, CSEA LAW DEPARTMENT (PAMELA NORRIX-TURNER, ESQ., of Counsel), for Intervenor

BARTLETT, PONTIFF, STEWART, RHODES & JUDGE, ESQS. (J. LAWRENCE PALTROWITZ, ESQ., of Counsel), for Employer

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the Warren County Police Officers Association (Association) to the decision of the Director of Public Employment Practices and Representation (Director) dismissing the Association's petition. The Association seeks to fragment an existing unit of all the employees of the Sheriff's Department of the

County of Warren currently represented by the Intervenor, Civil Service Employees Association, Inc., Warren County Local 857 (CSEA), and to separately represent its deputy sheriffs and sergeants assigned to the road patrol and investigation divisions. CSEA has filed a response in opposition to the exceptions of the Association. The County has expressed no preference with regard to the uniting issue.

The Association bases its request for a separate unit for the road patrol deputies on two grounds; first, that deputy sheriffs are law enforcement officers functioning in the same way as police officers, and that the deputies assigned as correction officers in the jail and as communication operators do not perform similar law enforcement responsibilities, resulting in an inherent conflict of interest; second, that these divergent interest have led to and created conflicts in negotiations and inadequate representation in the handling of grievances.

FACTS

Having reviewed the record, we adopt in full the findings of fact made by the Director in his decision below. In brief, the Sheriff's Department is divided into several operating divisions: road patrol, which also incorporates investigation and civil, correction (jail) and communication. Forty-three employees are assigned to road patrol; 20 full-time and 5 part-time employees to correction; and 11 employees, all communication operators, to the communication

division. All of these, except for clericals and cooks, have been deputed by the Sheriff and are in the classified civil service. They are all subject to common personnel practices and procedures and most of the benefits provided by the existing contract.

While all must pass a physical examination in order to be employed, the road patrol deputies must pass an agility test for employment. The latter must also undergo several hundred hours of State-mandated training, including firearm training. They perform traditional police work throughout the County and have responsibility for preventing crime, enforcing laws and ordinances and maintaining the peace. On occasion, road patrol deputies are called upon to assist at the jail. They also are assigned to transport prisoners to court, to hospitals and to other facilities. The correction officers work primarily in the jail and are not assigned to road patrol duties. They undergo substantially fewer hours of job training, and are not required to take firearm training unless they want to be eligible for prisoner transport assignments. The communication operators answer emergency calls and calls for assistance, dispatch vehicles and transfer calls. Firearm training is available to them should they choose to make themselves available for prisoner transport.

As to the quality of the representation afforded to the road patrol deputies, the Director's decision fully sets

forth the incidents and experiences relied upon by the Association to support its claim of inadequate representation and conflicts in negotiations. In brief, in several recent contract negotiations, a demand for pay equity for the correction officers with the deputies has been a "stumbling block" in negotiations. On another occasion, a safety proposal sought by the road patrol deputies was dropped in favor of a larger salary increase for the entire unit. In addition, testimony was received regarding the handling by CSEA of several grievances of certain road patrol deputies.

DIRECTOR'S DECISION

With regard to the Association's claim of an inherent conflict of interest between the law enforcement functions of the road patrol deputies and the functions of the correction officers and communication operators, the Director concluded that "there is no real factual basis" distinguishing this case from our decision in County of Albany and Albany County Sheriff, 19 PERB ¶3054 (1986), and that our decision in that case is dispositive of the Association's argument. As to the Association's claim of negotiations conflict and inadequate representation, the Director concluded that the record does not establish such conflict or inadequate representation as to warrant the fragmentation of this long-standing unit, nor establish that the road patrol deputies, as a distinct group, have received disparate treatment.

EXCEPTIONS

The Association urges us either to distinguish County of Albany and Albany County Sheriff, supra, on the facts or to reconsider and overrule that decision. The Association argues that, in this case, the road patrol, jail and communication functions are entirely separate administrative departments and there is essentially no overlap or crossover in job functions, while in the Albany case, there was proof of a clear overlap in functions. The Association also argues that road patrol deputies should be viewed by us as no different than other police officers and should be accorded the same separate units as we have granted to police officers. The Association also claims that the evidence herein establishes a conflict between the interests of the road patrol deputies and all other members of the existing unit, both in collective bargaining matters and in grievance administration.

DISCUSSION

The Association urges us to find that the law enforcement duties of the road patrol deputies warrant a separate bargaining unit for these employees. We have previously considered and rejected the claim that there is an inherent conflict of interest between the responsibilities of road patrol deputies and correction officers in a sheriff's department warranting fragmentation of an overall unit of sheriff's department employees. Rather, we have recognized

that the common "law enforcement" responsibilities of deputy sheriffs and correction officers, by whatever title, warrant a single unit for both.[1/]

We have also previously held that, primarily because of the existence of a joint employer, sheriff's department employees should most appropriately be fragmented from all other employees of a county.[2/] In so holding, we also accorded considerable weight to the fact that the work of most of the employees of a sheriff's department primarily involves law enforcement, thus distinguishing such employees from other county employees.

Our decisions also reflect an almost uniform practice of establishing separate bargaining units for police officers who are members of a municipality's organized police department rather than maintaining them in units with other employees who do not have law enforcement responsibilities. In Village of Skaneateles, 16 PERB ¶3070 (1983), we indicated at least three reasons for this treatment of such police officers: 1) the special and unique police community of interest deriving from their law enforcement duties and

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[1/] County of Albany and Albany County Sheriff, supra; Albany County and Albany County Sheriff's Department, 15 PERB ¶3008 (1982); County of Schenectady and Sheriff, 14 PERB ¶3013 (1981); County of Rockland, 11 PERB ¶3050 (1978).

[2/] County of Orange and the Sheriff of the County of Orange, 14 PERB ¶3012 (1981); County of Schenectady and Sheriff, supra; County of Montgomery and the Montgomery County Sheriff, 12 PERB ¶3126 (1979).

hazards attendant thereto; 2) the compatibility of such separate unit with the joint responsibilities of the public employer and public employees to serve the public, the primary commitment of law enforcement being part and parcel of the employer's fundamental mission to preserve public order; and 3) the separate impasse procedures under Civil Service Law (CSL) §209.4, which can create pitfalls to stable labor relations for a combined police and nonpolice unit.

As we indicated in Skaneateles, the special and unique community of interest derived from law enforcement duties is not the only reason for finding a separate unit of police officers to be most appropriate. In all of the cited cases, the police officers would otherwise be continued in units with employees with no law enforcement duties. When dealing with a sheriff's department, however, we deal with road patrol deputies, correction officers and communication operators who share a common law enforcement responsibility with their employer. All are part and parcel of the sheriff's fundamental mission to preserve public order. In this regard, we note that the evidence herein of overlap of functions is not significantly different than that found in County of Albany and Albany County Sheriff, supra.

Of considerable significance, also, the road patrol deputy sheriffs and the jail and communication division deputy sheriffs are subject to the same impasse procedures under CSL §209.3. Unlike police officers who are members of

an organized police department, the road patrol deputy sheriffs are not subject to the impasse procedures, including interest arbitration, provided under CSL §209.4.

For these reasons, we continue to believe that the "law enforcement" responsibilities and duties of road patrol deputies and non-road patrol deputies are of sufficient common interest to warrant a single unit for both. There are sufficient differences between the relationship of police officers who are members of a municipality's organized police department to other employees and the relationship of road patrol deputy sheriffs to other deputies employed in a sheriff's department to warrant the conclusion that the road patrol's law enforcement duties do not alone justify according them a separate bargaining unit.

Having reviewed the record, we also affirm the Director's conclusion that the Association has not established a disparity in the quality of representation furnished to road patrol deputies by CSEA. There has been no showing of a deliberate organizational strategy to afford road patrol deputy sheriffs a lower quality of representation nor has there been a showing that they have not received meaningful and effective representation in negotiations. Indeed, the record shows that the road patrol deputies comprise a majority of the unit, a road patrol deputy is the president of the CSEA unit, and these deputies

have greater representation on the negotiating team than the other members of the unit. Under these circumstances, we cannot find that the negotiating results complained of by the Association represent a deliberate sacrifice of the interests of the road patrol deputies. The claim of inadequate representation of grievances involves, at best, the merit of the judgments made by the president, who is himself a road patrol deputy. In short, there is no showing on this record that the road patrol deputies, as a distinct group, are receiving disparate treatment. In the absence of such evidence, there is no basis to fragment this long-standing unit.

IT IS THEREFORE ORDERED that the petition be, and it hereby is, dismissed in its entirety.

DATED: August 3, 1988
Albany, New York

Harold R. Newman, Chairman

Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

CIVIL SERVICE EMPLOYEES ASSOCIATION,
LOCAL 830, AFSCME, LOCAL 1000, AFL-CIO,

Charging Party,

-and-

CASE NOS. U-8997
and U-9025

COUNTY OF NASSAU

Respondent.

RICHARD M. GABA, ESQ. (LOUIS D. STOBER, ESQ, of Counsel), for Charging Party

BEE, DE ANGELIS & EISMAN, ESQS. (by PETER A. BEE, ESQ.), for Respondent

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of both Civil Service Employees Association, Local 830, AFSCME, Local 1000, AFL-CIO (CSEA) and the County of Nassau (County) to the decision of the Administrative Law Judge (ALJ), dismissing in part, and sustaining in part, two charges and an amendment filed by CSEA on October 15 and 28, 1986 and January 16, 1987, respectively. Each charge alleged that the County violated §§209-a.1(a) and (d) of the Public Employees' Fair Employment Act (Act) by unilaterally transferring bargaining unit work to nonunit employees. The matters were consolidated for hearing.

The County provides advance emergency medical assistance through its Emergency Ambulance Bureau, a branch of its Police Department. The County employs in the Bureau both bargaining unit civilians and nonunit police officers as Ambulance Medical Technicians (AMTs). There is no functional difference between the medical duties of police officer AMTs (P-AMTs) and civilian AMTs (C-AMTs); both provide emergency medical assistance using the County's ambulances. However, the C-AMTs are assigned to stationary locations from which they are dispatched to the situs of need, while the P-AMTs patrol County roads in ambulances from which they also perform routine law enforcement services as well as providing emergency medical assistance.

The County also has utilized C-AMTs to staff its Emergency Medical Control Center, located in one of its hospitals. The tasks performed by the C-AMTs include the staffing of radios with which emergency medical information is exchanged between the AMTs providing medical assistance and the doctors at the hospital, and maintaining the radio telemetry records, called the "blotter". In addition, since the early 1980s, the C-AMTs have served as "custodians" of a gun locker housed in the Center.

Each of the assignments of personnel in the Emergency Ambulance Bureau has been designated as a "post". Thus, for example, within each of the County's 9 geographic precincts,

there are 2 posts, 1 at a fixed location at which 1 C-AMT is assigned, and 1 on patrol assigned to a P-AMT. Each post is identified by a different post number. There is also a designated post number for the assignment at the Emergency Control Center, the duties of which include maintenance of the "blotter" and custody of the gun locker.

When, through attrition, vacancies appeared in the C-AMT force, the County assigned 2 P-AMTs to patrol certain precincts during 4 shifts which had previously been manned by 1 P-AMT and 1 C-AMT. Additionally, the County assigned P-AMTs to the Emergency Medical Control Center post, which was responsible for the maintenance of the blotter and the gun locker.

In regard to each of these functions, CSEA asserts that the County unilaterally assigned P-AMTs to posts that had previously been assigned on a permanent basis to C-AMTs, in violation of the Act.

The ALJ found that CSEA failed to establish that emergency medical assistance has been exclusive unit work. He rejected CSEA's claim that the County's post numbers defined discrete work boundaries. He dismissed CSEA's charge relating to such work.

The ALJ also found, however, that CSEA had established that the record-keeping duties relating to the maintenance of the blotter and the duties involving the custody of the gun

locker were exclusively performed by C-AMTs prior to the County's unilateral transfer of such duties to P-AMTs. He found that the County failed to offer any explanation for the transfer of the record-keeping duties to the P-AMTs. Accordingly, he determined that the County violated §§209-a.1(a) and (d) of the Act when it transferred such unit work to the nonunit personnel.

As to the transfer of the gun locker responsibilities, the ALJ noted that such transfer was based on the belief of the commanding officer of the Emergency Ambulance Bureau that it was "illegal" to assign such responsibilities to a civilian. He found this to be a good faith belief warranting dismissal of the alleged violation of §209-a.1(a) of the Act. Nevertheless, the ALJ found no statutory support for the belief and concluded that the impact of the transfer on unit work outweighed the speculative basis for assigning such work to P-AMTs. Accordingly, he determined that the County violated §209-a.1(d) of the Act when it unilaterally assigned nonunit P-AMTs to perform the work of maintaining "custody" of the gun locker, the same job exclusively performed by unit C-AMTs.

The ALJ dismissed as untimely the January 16, 1987 amendment, since it complained of one of the assignments made more than four months before the filing of the amendment.

In its exceptions, CSEA challenges the ALJ's dismissal regarding the assignment of P-AMTs to emergency medical assistance posts formerly assigned to C-AMTs. CSEA asserts that these posts constitute separate work boundaries clearly defined by the post numbers. CSEA's position is that certain post numbers identify stationary posts which have always been permanently assigned only to C-AMTs. CSEA also excepts to the ALJ's dismissal of its January 16, 1987 amendment on the ground that such dismissal is not authorized by our Rules since the County never raised the issue of timeliness in its answer or at the hearing.

The County's exceptions relate only to the ALJ's determination with regard to the transfer of gun locker duties.[1/] The County argues that a decision was made to change the qualifications for the job. It relies on Penal Law §265.01 as support for the contention that only police officers may legally have "custodial possession" of the gun locker. It urges that its determination that police officers are better qualified for this job than C-AMTs should outweigh any impact on CSEA's negotiating unit.

DISCUSSION

We have previously held that, with respect to the unilateral transfer of unit work, the initial essential

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[1/]The County has not excepted to the ALJ's determination regarding the transfer of the record-keeping duties relating to the maintenance of the "blotter".

questions are whether the work had been performed by unit employees exclusively and whether the reassigned tasks are substantially similar to those previously performed by unit employees.[2] In determining whether the duties at issue have been performed exclusively by unit employees, we have indicated that the charging party must establish a discernable boundary to the claimed unit work which would appropriately set it apart from work done by nonunit personnel.[3]

We affirm the ALJ's conclusion that CSEA has failed to establish that the County improperly transferred exclusive unit work when it assigned P-AMTs to post numbers previously assigned to C-AMTs to carry out emergency medical assistance duties. CSEA's focus on the post numbers by which the County identifies the newly-assigned posts cannot be accepted as defining the distinction, if any, between unit work of C-AMTs and the work of P-AMTs. It is clear that if there is any distinction between the two groups of AMTs, it is that C-AMTs remain at stationary locations while P-AMTs are always on patrol, performing both ambulance and law enforcement

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[2] Niagara Frontier Transportation Authority, 18 PERB ¶3083 (1985).

[3] We found such a discernable boundary in Town of West Seneca, 19 PERB ¶3028 (1986). We found no discernable boundary of exclusivity in Indian River School Unit, CSEA, 20 PERB ¶3047 (1987). See also Otselic Valley CSD, 19 PERB 3065 (1986); Guilderland CSD, 16 PERB 3038 (1983).

services. It is not the post number which determines whether stationary or mobile services are to be provided, but whether a C-AMT or P-AMT is utilized. When a P-AMT is assigned a post number formerly assigned to a C-AMT, the P-AMT is required to be on patrol. The post numbers are merely convenient administrative designations intended to identify the location of individual C-AMTs and P-AMTs. We agree with the ALJ that the post numbers do not define a discernable boundary which would set apart the work performed by C-AMTs from the work performed by P-AMTs. Inasmuch as there is no functional difference between the medical duties of C-AMTs and P-AMTs, we affirm the dismissal of CSEA's allegations in this regard.

This record does, however, establish that additional duties can be, and have been, assigned exclusively to C-AMTs. One such duty involved the custody of the gun locker at the Emergency Medical Control Center. Before police officers may enter the hospital, they are required to secure their weapons in lockers. The "custodian" gives a key to the police officer, who places the gun in the locker and retains the key. The "custodian" is responsible for the security of the gun locker room and the guns in the lockers but does not at any time have direct access to the guns. This custodial responsibility has been performed exclusively by C-AMTs since the early 1980s.

The County admittedly transferred this responsibility to nonunit police officers. Its principal defense to the charge is that a decision was made to change the employment qualifications necessary to perform this duty when the commanding officer of the Emergency Ambulance Bureau concluded that only police officers could "legally" perform the job. The County relies on Penal Law §265.01, which makes it a crime to "possess" a weapon, in support of its claim of illegality. The commanding officer's opinion, however, is not sufficient to establish that the C-AMTs' temporary responsibility for the custody of the guns in the locker while performing their assigned duties as employees of the Police Department would be found to be a crime. Apart from its speculative claim of illegality, the County merely asserts that police officers are better qualified than C-AMTs to perform the gun locker duty. In light of the fact that C-AMTs were assigned sole responsibility for this job for several years, without any evidence of inadequate performance,[4/] we conclude that the County's asserted interest in the qualifications for the job does not outweigh the impact on CSEA's negotiating unit occasioned by this transfer of work.

[4/]See Town of Brookhaven, 17 PERB ¶3087 (1984); West Hempstead UFSD, 14 PERB ¶3096 (1981).

Finally, we conclude that the dismissal of CSEA's amendment of January 16, 1987 on the grounds of timeliness was properly made pursuant to our Rules. Section 204.7(l) of our Rules authorizes the dismissal of a charge on the ALJ's own initiative on the ground that the alleged violation occurred more than four months prior to the filing of the charge if the failure of timeliness "was first revealed during the hearing." CSEA does not question that the evidence produced at the hearing revealed that the action alleged in the amendment took place more than four months before the filing of the amendment.

Accordingly, we find that the County violated §209-a.1(d) of the Act by assigning nonunit P-AMTs to perform the gun locker responsibilities previously exclusively performed by unit C-AMTs.

By reason of the foregoing, the County is hereby ordered to:

> 1. Restore to CSEA unit members the record-keeping and gun locker responsibilities at the Emergency Medical Control Center which had been assigned to P-AMTs;
>
> 2. Cease and desist from coercing, restraining or interfering with unit employees in the exercise of activities protected by the Act;
>
> 3. Negotiate in good faith with CSEA concerning unit members' terms and conditions of employment; and,

4. Sign and post the attached notice at all locations customarily used to post notices to unit employees.

DATED: August 3, 1988
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Walter L. Eisenberg
Walter L. Eisenberg, Member

APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

THE DECISION AND ORDER OF THE

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE
PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify all employees in the unit represented by the Civil Service Employees Association, Local 830, AFSCME, Local 1000, AFL-CIO, that the County of Nassau:

1. Will restore to CSEA unit members the record-keeping and gun locker responsibilities at the Emergency Medical Control Center which had been assigned to police officer Emergency Ambulance Medical Technicians.

2. Will not coerce, restrain or interfere with unit employees in the exercise of activities protected by the Public Employees' Fair Employment Act;

3. Will negotiate in good faith with CSEA concerning unit members' terms and conditions of employment.

COUNTY OF NASSAU

.....

Dated..... **By**.....
(Representative) (Title)

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altere defaced, or covered by any other material.

11683

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

UNATEGO NON-TEACHERS ASSOCIATION, NYSUT, AFT, AFL-CIO, LOCAL NO. 3895,

Charging Party,

-and- CASE NO. U-9627

UNATEGO CENTRAL SCHOOL DISTRICT,

Respondent.

PETER D. BLOOD, for Charging Party

HOGAN & SARZYNSKI, ESQS. (EDWARD J. SARZYNSKI, ESQ., of Counsel), for Respondent

BOARD DECISION AND ORDER

The Unatego Central School District (District) excepts to an Administrative Law Judge (ALJ) decision which finds that the District violated §209-a.1(d) of the Public Employees' Fair Employment Act (Act) when it unilaterally adopted an "Unpaid Leave of Absence" policy and altered its existing unpaid leave practice. The District does not deny that the written policy promulgated on April 29, 1987, to be effective July 1, 1987, was not negotiated with the Unatego Non-Teachers Association, NYSUT, AFT, AFL-CIO, Local No. 3895 (Association), but asserts that the written policy so promulgated merely constitutes a codification of existing practice with respect to unpaid leaves of absence. The District further argues in its exceptions that establishment of an unpaid leave of absence policy does not constitute a

violation unless the evidence establishes that the policy alters or abolishes leave time. [See Waverly CSD, 20 PERB ¶4569, affd, 20 PERB ¶3061 (1988)]. The third exception of the District alleges that §92 of the General Municipal Law gives to the governing board of each school district the right to grant leaves of absence to its employees, with or without pay, and to "adopt rules and regulations in relation thereto," giving to the District, absent a waiver by it, the unfettered right to promulgate procedures without negotiation.

For the reasons which follow, the District's exceptions are denied, and the decision of the ALJ is affirmed.

In a related case, issued simultaneously with this Decision and Order, this Board holds that the District violated §209-a.1(d) of the Act as against another employee organization by promulgating the policy at issue in the instant case. We there find that not only the procedures for requesting leave, but the criteria for the determination of whether leave would be granted, were modified by promulgation of the written policy.[1/] For the reasons set forth in that decision, and based upon the evidence adduced at the hearing before the ALJ in the instant case, we find that the written policy promulgated by the District on April 29, 1987 did not constitute a mere codification of the previously existing practice, but made changes in violation of §209-a.1(d)

[1/] See Unatego CSD, 21 PERB ¶3039 (decided August 3, 1988).

of the Act[2] by unilaterally making changes in the procedure and criteria for granting leaves. The first two exceptions of the District are, for these reasons, denied.

The District's third exception appears to assert that §92 of the General Municipal Law confers a right to implement unilaterally procedures and policies concerning, specifically, the granting of leaves of absence with or without pay, notwithstanding the provisions of §209-a.1(d) of the Act, which it is our duty to administer and enforce. We have held in other cases that in the absence of an expression of specific legislative intent to take a matter which would otherwise constitute a term and condition of employment outside the scope of collective bargaining, the duty to bargain will be construed consistently with the right of an employer to exercise discretion conferred by statute, in order to give both statutes their proper effect.[3] There is no evidence here which would support a finding that §92 of the General Municipal Law is intended to, or does, take the issue of unpaid leaves of absence outside the scope of bargaining under the Act, or that it shifts the burden of the District to the Association to obtain a waiver of the right to bargain leave of absence procedures.

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[2] See Spencerport CSD, 16 PERB ¶3074 (1983); City of Albany, 7 PERB ¶3078 (1974); Plainedge UFSD, 7 PERB ¶3050 (1974).

[3] See, e.g., Elmira CSD, 20 PERB ¶3054 (1987) (appeal pending); Board of Education of the City School District of the City of New York, 19 PERB ¶3015 (1986), and cases cited therein.

Based upon the foregoing and upon our holdings in Unatego CSD, supra, decided simultaneously herewith, we find that the District violated §209-a.1(d) of the Act when it unilaterally promulgated, on April 29, 1987, and implemented on July 1, 1987, an unpaid leave of absence policy.

IT IS THEREFORE ORDERED that the District:

1. Rescind the unpaid leave of absence policy adopted by the Board of Education on April 29, 1987, as it affects employees in the unit represented by the Unatego Non-Teachers Association;
2. Negotiate in good faith with the Unatego Non-Teachers Association with respect to terms and conditions of employment of unit employees; and
3. Post a notice in the form attached in all locations ordinarily used to post written communications to unit employees.

DATED: August 3, 1988
Albany, New York

Harold R. Newman, Chairman

Walter L. Eisenberg, Member

APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

THE DECISION AND ORDER OF THE

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE
PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify all employees in the unit represented by the Unatego Non-Teachers Association, NYSUT, AFT, AFL-CIO, Local 3895, that the Unatego Central School District:

1. Will rescind the unpaid leave of absence policy adopted by the Board of Education on April 29, 1987, as it affects employees in the unit represented by the Unatego Non-Teachers Association, and

2. Will negotiate in good faith with Unatego Non-Teachers Association with respect to terms and conditions of employmemt of unit employees.

UNATEGO CENTRAL SCHOOL DISTRICT

.....

Dated.....

By.....
(Representative) (Title)

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

11688

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

MONROE COUNTY DEPUTY SHERIFFS' ASSOCIATION,

Petitioner,

-and- CASE NO. C-3408

COUNTY OF MONROE and MONROE COUNTY SHERIFF,

Employer,

-and-

SECURITY AND LAW ENFORCEMENT EMPLOYEES, COUNCIL 82, AFSCME, AFL-CIO,

Intervenor.

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that the Monroe County Deputy Sheriffs' Association has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: All deputized personnel up to and including Sergeant Investigator, in the following titles:

Deputy Sheriff Jailor
Deputy Sheriff Jailor Corporal
Deputy Sheriff Jailor Sergeant
Deputy Sheriff Patrol
Deputy Sheriff Corporal Headquarters
Deputy Sheriff Sergeant Patrol
Deputy sheriff Investigator
Deputy Sheriff Sergeant Investigator
Deputy Sheriff Court Security Supervisor
Deputy Sheriff Assistant Court Security Supervisor
Deputy Sheriff Senior Court Security
Deputy Sheriff Civil
Deputy Sheriff Assistant Supervisor - Civil
Deputy Sheriff Court Security

Excluded: Deputy Sheriff Lieutenant and higher titles.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Monroe County Deputy Sheriffs' Association. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: August 3, 1988
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Walter L. Eisenberg
Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

ORLEANS-NIAGARA BOCES ASSOCIATION OF RELATED SERVICE PROFESSIONALS,

Petitioner,

-and-

CASE NO. C-3377

ORLEANS-NIAGARA BOARD OF COOPERATIVE EDUCATIONAL SERVICES,

Employer.

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that the Orleans-Niagara BOCES Association of Related Service Professionals has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: All full-time and regularly scheduled part-time physical therapists (RPT - licensed and registered), occupational therapists (OTR/L - licensed and registered), certified occupational therapy assistants (COTA) and physical therapy assistants.

Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Orleans-Niagara BOCES Association of Related Service Professionals. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: August 3, 1988
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Walter L. Eisenberg
Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

GEORGE RODAK,

Petitioner,

-and- CASE NO. C-3390

JORDAN ELBRIDGE CENTRAL SCHOOL DISTRICT,

Employer,

-and-

CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFSCME/AFL-CIO,

Intervenor.

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that the Civil Service Employees Association, Inc., Local 1000, AFSCME/AFL-CIO has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the

purpose of collective negotiations and the settlement of grievances.

Unit: Included: All full-time and part-time bus drivers.

Excluded: All other employees, casual and substitute employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Civil Service Employees Association, Inc., Local 1000, AFSCME/AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: August 3, 1988
Albany, New York

Harold R. Newman, Chairman

Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

UNITED FEDERATION OF POLICE OFFICERS, INC.,

Petitioner,

-and-

CASE NO. C-3303

TOWN OF NEW PALTZ,

Employer,

-and-

NEW PALTZ POLICE DEPARTMENT LOCAL SECURITY AND LAW ENFORCEMENT EMPLOYEES, COUNCIL 82, AFSCME, AFL-CIO,

Intervenor.

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that the United Federation of Police Officers, Inc. has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their

exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: All employees of the New Paltz Emergency Communications Center in the title of Dispatcher.

Excluded: Chief Dispatcher.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the United Federation of Police Officers, Inc. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: August 3, 1988
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Walter L. Eisenberg
Walter L. Eisenberg, Member

11696

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

LOCAL 887, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO,

Petitioner,

- and -

CASE NO. C-3398

NEW YORK POWER AUTHORITY,

Employer,

- and -

NUCLEAR SECURITY OFFICERS BENEVOLENT ASSOCIATION,

Intervenor.

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that Local 887, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO has been designated and selected by a majority of the employees of the above-named public employer, in the unit

agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: All employees in the following titles: Watchperson, Nuclear Security Officer.

Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with Local 887, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: August 3, 1988
Albany, New York

Harold R. Newman, Chairman

Walter L. Eisenberg, Member